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DAN F. ARNETT
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147560

January 20, 2006

shudson@regstaff.sc.gov

Ms. Beatrice Weaver
P.O. Box 539
Little Rock, SC 29567

and also at:

1253 Harllees Bridge Road
Dillon, SC 29536

2004-219-E

Dear Ms. Weaver:

This is in response to your letter dated January 15, 2006 to the South Carolina Office of Regulatory Staff ("ORS") wherein you requested a copy of the ORS guidelines for preventing utilities from disconnecting customer's electric service. There are no such ORS guidelines; however, please find enclosed the most recent version of House Bill 4404 sponsored by the Labor, Commerce and Industry Committee. I believe it is this House Bill that is the subject of the report you reference in your letter. You may also access this bill via the State Legislature website at: <http://www.scstatehouse.net>.

In your letter you further request "any ORS Reports on the subject as filed with the Legislature this year and last year." ORS has not filed any reports on the matter with the Legislature.

I hope you find this response meets your inquiry.

Sincerely,

Shannon Bowyer Hudson
Shannon Bowyer Hudson

Enclosures

cc: Len S. Anthony, Esquire
Jocelyn Boyd, Esquire

To: S.C. Office of Regulatory Staff
PO Box 11263
Colombia, SC 29211
Ph: 1 803 737 0800; 1 800 922 1531; Fax 1803 7374750

Attention: Executive Director

From: Beatrice Weaver / MAILING : *PO BOX 539 - 29567*
1 843 841 1606 - FAX *LITTLE ROCK / SC*

Subject: ORS Proposed Guidelines *ON DISCONNECT*

Ref: Progress Energy
File No: 2004-219 - E
Meter No. B 91771

Date: Jan. 15, 2006

Sir:

Would you please send me at your earliest convenience, a copy of the ORS Guidelines for Preventing Utilities from Disconnecting Customer's Electric Service, as recently submitted to the House Committee on Labor, Commerce, and Industry. See, report filed by Morning News, January 11, 2006, p.6A.

Also, please include any ORS Reports on the subject as filed with the Legislature this year and last year.

Thank you.

BEW

South Carolina General Assembly
116th Session, 2005-2006

Download [This Bill](#) in Microsoft Word format

~~Indicates Matter Stricken~~

Indicates New Matter

H. 4404

STATUS INFORMATION

General Bill

Sponsors: Labor, Commerce and Industry Committee

Document Path: l:\council\ills\dka\3538dw06.doc

Introduced in the House on January 11, 2006

Currently residing in the House

Summary: Electric and natural gas

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
1/11/2006	House	Introduced, read first time, placed on calendar without reference HJ-10
1/17/2006	House	Requests for debate-Rep(s). GM Smith, Coates, Duncan, Lucas, JE Smith, J Brown, Jennings, Ott, Scott, JH Neal, Vick, McLeod, Cato, Sandifer, Moody-Lawrence, Stewart, Jefferson, and Hosey HJ-14
1/17/2006	House	Read second time HJ-32
1/17/2006	House	Roll call Yeas-76 Nays-17 HJ-34
1/18/2006	House	Read third time and sent to Senate HJ-188
1/18/2006	House	Roll call Yeas-82 Nays-25 HJ-190
1/18/2006	House	Motion noted- Rep. J.E. Smith moved to reconsider the vote whereby H 4404 was given a third reading HJ-196
1/19/2006	House	Debate adjourned on motion to reconsider until Tuesday, January 24, 2006 HJ-19

View the latest [legislative information](#) at the LPITS web site

VERSIONS OF THIS BILL

1/11/2006

1/11/2006-A

(Text matches printed bills. Document has been reformatted to meet World Wide Web specifications.)

INTRODUCED

January 11, 2006

H. 4404

Introduced by Labor, Commerce and Industry Committee

S. Printed 1/11/06--H.

Read the first time January 11, 2006.

A BILL

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 25 TO CHAPTER 31, TITLE 5 SO AS TO PROVIDE FOR SAFETY NET PROGRAMS AND POLICIES FOR CERTAIN ELECTRIC AND NATURAL GAS CUSTOMERS TO ENSURE THAT THEIR UTILITY SERVICES ARE PROTECTED FROM TERMINATION DURING EXTREME WEATHER CONDITIONS AND PROVIDE THAT A PUBLIC UTILITY MAY DISCONNECT A SPECIAL NEEDS CONSUMER WHEN DIRECTED BY FIRE OR LAW ENFORCEMENT PERSONNEL IN AN EMERGENCY; BY ADDING ARTICLE 9 TO CHAPTER 49, TITLE 33 SO AS TO PROVIDE FOR SAFETY NET PROGRAMS AND POLICIES FOR CERTAIN ELECTRIC CUSTOMERS TO ENSURE THAT THEIR UTILITY SERVICES ARE PROTECTED FROM TERMINATION DURING EXTREME WEATHER CONDITIONS AND PROVIDE THAT A PUBLIC UTILITY MAY DISCONNECT A SPECIAL NEEDS CONSUMER WHEN DIRECTED BY FIRE OR LAW ENFORCEMENT PERSONNEL IN AN EMERGENCY; BY ADDING ARTICLE 19 TO CHAPTER 27, TITLE 58 SO AS TO PROVIDE FOR SAFETY NET PROGRAMS AND POLICIES FOR CERTAIN ELECTRIC AND NATURAL GAS CUSTOMERS TO ENSURE THAT THEIR UTILITY SERVICES ARE PROTECTED FROM TERMINATION DURING EXTREME WEATHER CONDITIONS AND PROVIDE THAT A PUBLIC UTILITY MAY DISCONNECT A SPECIAL NEEDS CONSUMER WHEN DIRECTED BY FIRE OR LAW ENFORCEMENT PERSONNEL IN AN EMERGENCY; AND BY ADDING ARTICLE 5 TO CHAPTER 31, TITLE 58 SO AS TO PROVIDE FOR SAFETY NET PROGRAMS AND POLICIES FOR CERTAIN ELECTRIC CUSTOMERS TO ENSURE THAT THEIR UTILITY SERVICES ARE PROTECTED FROM TERMINATION DURING EXTREME WEATHER CONDITIONS AND PROVIDE THAT A PUBLIC UTILITY MAY DISCONNECT A SPECIAL NEEDS CONSUMER WHEN DIRECTED BY FIRE OR LAW ENFORCEMENT PERSONNEL IN AN EMERGENCY.

Whereas, the General Assembly finds that:

- (1) the citizens of South Carolina should be protected from termination of their utilities during extreme weather conditions;
- (2) customers with special needs should be protected from termination of their utilities;
- (3) by recognizing the need for protection, the General Assembly seeks to provide guidelines and policies regarding termination of utilities; and

(4) by adopting these guidelines and policies, the General Assembly is not attempting to further regulate utilities in this State nor is the General Assembly attempting to regulate utilities that are not regulated on the effective date of this act but instead seeks to provide an appropriate balance between protecting the citizens of South Carolina and the utilities' ability to provide reliable, cost-efficient service during extreme weather conditions and for their customers with special needs; and

(5) the guidelines provided in this act are intended to be the minimum standards a utility may adopt and are not intended to restrict the utilities' adoption of additional guidelines. Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 31, Title 5 of the 1976 Code is amended by adding:

"Article 25

Safety Net Programs for Special Needs Customers

Section 5-31-2510. For purposes of this article:

(1) 'Ability to pay' means one hundred fifty percent of the amount of the poverty guidelines promulgated in the Federal Register by the United States Department of Health and Human Services.

(2) 'Account holder' means the individual in whose name the residential electric or natural gas service is established.

(3) 'Chronically ill' means having been diagnosed by a licensed health care provider with having an illness marked by a long duration, by frequent recurrence of symptoms over a long period of time, or by slowly progressing debilitating effects.

(4) 'Cooling temperature threshold' means the high heat index forecasted by a weather forecasting service for the proposed date of termination.

(5) 'Cooling season' means June first through August thirty-first.

(6) 'Customer' means an individual receiving residential electric or natural gas service from a public utility.

(7) 'Disabled' means diagnosed as having:

(a) a physical or mental impairment that substantially limits one or more major life activities; or

(b) a history or record of such an impairment.

(8) 'Heating season' means December first through March thirty-first.

(9) 'Heating temperature threshold' means the average of the forecasted high and forecasted low temperatures provided by a weather forecasting service for the forty-eight hour period beginning on the proposed date of termination.

(10) 'Licensed health care provider' means a licensed medical doctor, physician's assistant, nurse

practitioner, or advanced-practice registered nurse.

(11) 'Life support' means electronic medical equipment required to sustain life.

(12) 'Person' includes an individual, group, firm, partnership, copartnership, corporation, cooperative, association, government subdivision, government agency, local government, municipality within corporate limits, any other organization, or any combination of any of the foregoing.

(13) 'Proof of age' means a photocopy of the special needs customer's driver's license, birth certificate, passport, or other appropriate federal or state document detailing the special needs customer's date of birth.

(14) 'Proof of inability to pay' means certification provided by the Department of Health and Human Services that the customer meets the poverty guidelines requirement as defined in this section.

(15) 'Public utility' means a person engaged in the distribution, sale, delivery, or furnishing of electricity or natural gas or both to the public for compensation and applies to a municipality or special purpose district or public service district providing electric or natural gas pursuant to the provisions of this chapter or Chapter 7 of this title.

(16) 'Registered special needs customer' means a special needs customer who has registered with a public utility pursuant to Section 5-31-2530 and is:

- (a) sixty-five years of age or older and unable to pay the amount of the charges due for services; or
- (b) disabled, chronically ill, seriously ill, or on life support.

(17) 'Seriously ill' means having been diagnosed by a licensed health care provider as having a life threatening condition or an illness that poses imminent danger to the patient.

(18) 'Weather forecasting service' means the National Oceanic and Atmospheric Administration or other weather forecasting services approved by the Office of Regulatory Staff.

Section 5-31-2520. (A) Each public utility shall establish a written procedure for disconnection of service for a special needs customer and during extreme weather conditions. A public utility shall meet the requirements of this article by:

- (1) adopting the guidelines in this article; or
- (2) submitting a procedure to the Office of Regulatory Staff.

(B) If the public utility submits its own plan, the public utility shall submit the plan to the Office of Regulatory Staff by September 1, 2006, and the Office of Regulatory Staff shall accept or reject the plan by October 1, 2006.

(C) The public utility shall operate under the guidelines provided in this article unless the Office of Regulatory Staff accepts their proposed plan.

(D) Any subsequent revisions must be submitted semiannually by March first or September first.

Section 5-31-2530. (A) A public utility shall establish and maintain a special needs customer program. The public utility shall maintain the name, address, and telephone number of all special needs customers registered with the public utility.

(B) Upon request, the public utility shall provide the appropriate special needs customer application to a customer.

(C)(1) An account holder may register a special needs customer with the public utility that serves the customer by submitting the appropriate special needs customer application to the public utility and providing:

- (a) the account holder's name;
- (b) the applicable account number and service address;
- (c) the account holder's mailing address, home and work phone;
- (d) proof of age of the special needs customer;
- (e) proof of inability to pay;
- (f) a certification signed by the special needs customer's licensed health care provider that the special needs customer is disabled, chronically ill, seriously ill, or on life support;
- (g) the licensed health care provider's business address, telephone number, and medical license number and state of issuance; and
- (h) if the special needs customer is not the account holder, certification by the special needs customer and the account holder that the account holder is responsible for the public utility bill at the special needs customer's domicile and that the special needs customer is a member of the household at that address.

(2) By registering a special needs customer pursuant to this subsection, the special needs customer authorizes the licensed health care provider to communicate directly with the public utility regarding the customer's medical condition or health care needs that may be impacted by the discontinuance of service by the public utility. The special needs customer specifically authorizes the disclosure of his personal health information, as reasonably necessary, to include the contents of the special needs customer application, in accordance with the Health Insurance Portability and Accountability Act. The customer may revoke this authorization by written notice to the public utility. The revocation of this authorization is effective only to the extent that the public utility has not relied upon the customer's authorization and results in immediate termination of that special needs customer's registration.

(D) A public utility, upon establishment of a new customer account, shall notify the customer of the special needs customer program.

(E) On a biannual basis, before the cooling and heating seasons, a public utility providing electric service shall issue public service announcements and send its customers proper notice about the special needs customer program including details of the program, requirements, and necessary qualifications. Notice to customers is considered proper if accomplished by special mailings, bill inserts, or bill messages.

(F) On an annual basis, before the heating season, a public utility providing natural gas service shall issue public service announcements and send its customers proper notice about the special needs customer program including details of the program and all requirements and necessary qualifications. Notice to customers is considered proper if accomplished by special mailings, bill inserts, or bill messages.

(G) A public utility providing electric and natural gas service may accomplish proper notice to both its gas and electric customers in the same notice.

(H) Registering a special needs customer with the public utility that serves the customer does not relieve the account holder of their obligation to pay for services rendered by the public utility.

(I) The Office of Regulatory Staff shall approve application forms to be used to register special needs customers.

Section 5-31-2540. (A) A public utility shall establish and maintain a Winter Protection Program. The public utility shall maintain the name, address, and telephone number of a Winter Protection Program customer registered with the public utility.

(B) A customer may register for the Winter Protection Program by providing:

- (1) the account holder's name;
- (2) the applicable account number and service address;
- (3) the account holder's mailing address, home and work phone;
- (4) a medical certificate signed by a licensed health care provider attesting:
 - (a) that termination of electric or natural gas service to the Winter Protection Program customer would be dangerous to the customer's health due to the customer's medical conditions;
 - (b) that duration of the Winter Protection Program customer's medical condition as being permanent or as lasting for a thirty, sixty, ninety, or one hundred twenty-day period; and
 - (c) the licensed health care provider's business address, telephone number, and medical license number and state of issuance;
- (5) if the Winter Protection Program customer is not the account holder, certification by the customer and the account holder that the account holder is responsible for the public utility bill at the customer's domicile and that the customer is a member of the household at that address.

(C) If a customer is classified as a special needs customer pursuant to Section 5-31-2530, he is presumed to be in the Winter Protection Program as defined in this section.

(D) Upon request, the public utility shall provide the appropriate Winter Protection Program application form to its customers.

(E) Unless the medical certificate submitted with the application for the Winter Protection Program indicates the customer's medical condition is permanent, the certificate is effective only for thirty, sixty,

ninety, or one hundred twenty-day periods as indicated on the certificate. After this effective period, the customer is required to submit a renewed medical certificate in order to continue to be registered as a Winter Protection Program customer.

(F) During the heating season, a public utility may not disconnect residential service when an account holder can provide to the public utility the application for the Winter Protection Program no less than three days before proposed disconnection of service or to the disconnection crew at time of disconnection.

(G) By registering a customer for the Winter Protection Program pursuant to this section, the customer authorizes the licensed health care provider to communicate directly with the public utility regarding the customer's medical condition or health care needs that may be impacted by the discontinuance of service by the public utility. The customer specifically authorizes the disclosure of his personal health information, as reasonably necessary, to include the contents of the Winter Protection Program application, in accordance with the Health Insurance Portability and Accountability Act. The customer may revoke this authorization by written notice to the public utility. The revocation of this authorization is effective only to the extent that the public utility has not taken action in reliance upon the customer's authorization and results in immediate termination of the Winter Protection Program registration for that customer.

(H) A public utility, upon establishment of a new customer account, shall notify the customer of the Winter Protection Program.

(I) On an annual basis, before the heating season, a public utility shall issue public service announcements and send its customers proper notice about the Winter Protection Program including details of the program and all requirements and necessary qualifications. Notice to customers is considered proper if accomplished by special mailings, bill inserts, or bill messages.

(J) Registering a customer for the Winter Protection Program does not relieve the account holder of his obligation to pay for services rendered by the public utility.

(K) The Office of Regulatory Staff shall approve application forms to be used to register customers for the Winter Protection Program.

Section 5-31-2550. (A) A public utility shall establish and maintain a third-party notification program. The public utility shall maintain the name, address, and telephone number of a third party designated by a residential customer pursuant to this section.

(B) A residential customer of a public utility may designate a third party to be notified if the electric or natural gas service is scheduled for disconnection by completing and submitting an application for the third-party notification program.

(C) Upon request, the public utility shall provide an application for the third-party notification program to its residential customers. A public utility, upon establishment of a new residential customer account, shall notify the customer of the third-party notification program.

(D) Within ten days after filing an application for third-party notification, the public utility shall send the named third party a letter advising the third party that he:

(1) has been listed on the customer's account to receive notice if the service is scheduled for

disconnection for nonpayment of service; and

(2) may decline from serving as a designated third party if he is not willing to receive a third-party notice and contact the customer upon receipt of a third-party notice.

(E) Within ten days after receiving notification that the third party does not wish to serve as a designated third party, the public utility shall send a letter to the customer advising him that the:

(1) third-party designee has requested not to receive third-party notification; and

(2) customer may designate another third party to receive notification.

(F) On a biannual basis, before the cooling and heating seasons, a public utility providing electric service shall issue public service announcements and send its residential customers proper notice about the third-party notification program including details of the program and all requirements and necessary qualifications. Notice to customers is considered proper if accomplished by special mailings, bill inserts, or bill messages.

(G) On an annual basis, before the heating season, a public utility providing natural gas service shall issue public service announcements and send its residential customers proper notice about the third-party notification program including details of the program and all requirements and necessary qualifications. Notice to customers is considered proper if accomplished by special mailings, bill inserts, or bill messages.

(H) A public utility providing electric and natural gas service may accomplish proper notice to both its gas and electric customers in the same notice.

(I) The Office of Regulatory Staff shall approve application forms for the third-party notification program.

Section 5-31-2560. (A) During the heating season, a public utility may not disconnect residential service if the National Weather Service predicts the local forecasted average low temperature at 8:00 a.m. for the following forty-eight hour period will be:

(1) a heating temperature threshold equal to or below thirty-two degrees Fahrenheit; or

(2) a forecasted low temperature equal to or below twenty degrees Fahrenheit.

(B) During the cooling season, a public utility providing electric service may not disconnect residential service if the National Weather Service predicts the local forecasted heat index at 8:00 a.m. for the following twenty-four hour period will be a cooling temperature threshold equal to or greater than one hundred five degrees Fahrenheit.

(C) A public utility shall rely upon the temperature or heat index forecasted by a weather forecasting service. If, contrary to forecasts by a weather forecasting service, the actual temperature on the day of termination reaches twenty degrees Fahrenheit or below or the actual heat index reaches one hundred five degrees Fahrenheit or above, and the public utility disconnects a customer, the public utility is not deemed to have violated the requirements of subsections (A) or (B).

(D) If a public utility has scheduled a disconnection of service of a registered special needs customer:

(1) not less than ten days before a scheduled disconnection of service, the public utility shall mail a written disconnection notice to the registered special needs customer. If the registered special needs customer is not the account holder, the public utility shall mail a written disconnection notice to the account holder instead of the registered special needs customer. The public utility also shall mail a written disconnection notice to the third-party designee, if applicable, informing the third-party designee of the scheduled disconnection and requesting that the third-party designee contact the account holder and the registered special needs customer;

(2) if the registered special needs customer has not arranged payment with the public utility, or payment has not been received by the public utility, the public utility shall mail a written notice of scheduled disconnection to the registered special needs customer three days before the scheduled disconnection of service. If the registered special needs customer is not the account holder, the public utility shall mail a written disconnection notice to the account holder instead of the registered special needs customer. The public utility also shall mail a written disconnection notice to the third-party designee, if applicable, informing the third-party designee of the scheduled disconnection and requesting that the third-party designee contact the registered special needs customer.

(3) before the service is disconnected from a registered special needs customer, the public utility's disconnection crew shall make a good faith effort to make personal contact with either the registered special needs customer, the account holder, or a responsible person of suitable age and discretion at the premises before disconnecting the service. If, after the disconnection crew has made personal contact, the registered special needs customer, the account holder, or a responsible party at the premises advises the disconnection crew that the registered special needs customer has serious health concerns, disconnection must be suspended. The disconnection crew shall notify the public utility that the disconnection has been suspended and the public utility shall follow its internal special needs customer review process; or

(4) if the account holder or the registered special needs customer requests a payment extension from the disconnection crew, the scheduled disconnection must be suspended for one full business day beyond the scheduled date for disconnection.

(E) If a public utility has scheduled a disconnection of service of a residential customer other than a registered special needs customer, the public utility shall notify the customer's third-party designee, if applicable, of the scheduled disconnection at the same time and in the same manner as the public utility is required to notify the customer.

Section 5-31-2570. (A) This article does not create a private right of action. The terms of this article or an order issued under it may not be construed as creating or evidencing a duty of care under the laws of this State.

(B) This article seeks to limit the liability of a public utility that complies with the provisions of this article to actual damages, not to exceed two hundred thousand dollars for each occurrence.

Section 5-31-2580. Notwithstanding another provision of this article, a public utility may disconnect a special needs customer or a customer covered by another program of this article when directed to do so by personnel employed or volunteering for a lawfully or regularly organized fire department or police department or sheriff's department when it is determined that an emergency exists."

SECTION 2. Chapter 49, Title 33 of the 1976 Code is amended by adding:

"Article 9

Safety Net Programs for Special Needs Customers

Section 33-49-810. For purposes of this article:

- (1) 'Ability to pay' means one hundred fifty percent of the amount of the poverty guidelines promulgated in the Federal Register by the United States Department of Health and Human Services.
- (2) 'Account holder' means the individual in whose name the residential electric service is established.
- (3) 'Chronically ill' means having been diagnosed by a licensed health care provider with having an illness marked by a long duration, by frequent recurrence of symptoms over a long period of time, or by slowly progressing debilitating effects.
- (4) 'Cooling temperature threshold' means the high heat index forecasted by a weather forecasting service for the proposed date of termination.
- (5) 'Cooling season' means June first through August thirty-first.
- (6) 'Customer' means an individual receiving residential electric service from a public utility.
- (7) 'Disabled' means diagnosed as having:
 - (a) a physical or mental impairment that substantially limits one or more major life activities; or
 - (b) a history or record of such an impairment.
- (8) 'Heating season' means December first through March thirty-first.
- (9) 'Heating temperature threshold' means the average of the forecasted high and forecasted low temperatures provided by a weather forecasting service for the forty-eight hour period beginning on the proposed date of termination.
- (10) 'Licensed health care provider' means a licensed medical doctor, physician's assistant, nurse practitioner, or advanced-practice registered nurse.
- (11) 'Life support' means electronic medical equipment required to sustain life.
- (12) 'Person' includes an individual, group, firm, partnership, copartnership, corporation, cooperative, association, government subdivision, government agency, local government, municipality within corporate limits, any other organization, or any combination of any of the foregoing.
- (13) 'Proof of age' means a photocopy of the special needs customer's driver's license, birth certificate, passport, or other appropriate federal or state document detailing the special needs customer's date of birth.
- (14) 'Proof of inability to pay' means certification provided by the Department of Health and Human Services that the customer meets the poverty guidelines requirement as defined in this section.

(15) 'Public utility' means a person engaged in the distribution, sale, delivery, or furnishing of electricity to the public for compensation.

(16) 'Registered special needs customer' means a special needs customer who has registered with a public utility pursuant to Section 33-49-830 and is:

- (a) sixty-five years of age or older and unable to pay the amount of the charges due for services; or
- (b) disabled, chronically ill, seriously ill, or on life support.

(17) 'Seriously ill' means having been diagnosed by a licensed health care provider as having a life threatening condition or an illness that poses imminent danger to the patient.

(18) 'Weather forecasting service' means the National Oceanic and Atmospheric Administration or other weather forecasting services approved by the Office of Regulatory Staff.

Section 33-49-820. (A) Each public utility shall establish a written procedure for disconnection of service for a special needs customer and during extreme weather conditions. A public utility shall meet the requirements of this article by:

- (1) adopting the guidelines in this article; or
- (2) submitting a procedure to the Office of Regulatory Staff.

(B) If the public utility submits its own plan, the public utility shall submit the plan to the Office of Regulatory Staff by September 1, 2006, and the Office of Regulatory Staff shall accept or reject the plan by October 1, 2006.

(C) The public utility shall operate under the guidelines provided in this article unless the Office of Regulatory Staff accepts their proposed plan.

(D) Any subsequent revisions must be submitted semiannually by March first or September first.

Section 33-49-830. (A) A public utility shall establish and maintain a special needs customer program. The public utility shall maintain the name, address, and telephone number of all special needs customers registered with the public utility.

(B) Upon request, the public utility shall provide the appropriate special needs customer application to a customer.

(C)(1) An account holder may register a special needs customer with the public utility that serves the customer by submitting the appropriate special needs customer application to the public utility and providing:

- (a) the account holder's name;
- (b) the applicable account number and service address;
- (c) the account holder's mailing address, home and work phone;

- (d) proof of age of the special needs customer;
- (e) proof of inability to pay;
- (f) a certification signed by the special needs customer's licensed health care provider that the special needs customer is disabled, chronically ill, seriously ill, or on life support;
- (g) the licensed health care provider's business address, telephone number, and medical license number and state of issuance; and
- (h) if the special needs customer is not the account holder, certification by the special needs customer and the account holder that the account holder is responsible for the public utility bill at the special needs customer's domicile and that the special needs customer is a member of the household at that address.

(2) By registering a special needs customer pursuant to this subsection, the special needs customer authorizes the licensed health care provider to communicate directly with the public utility regarding the customer's medical condition or health care needs that may be impacted by the discontinuance of service by the public utility. The special needs customer specifically authorizes the disclosure of his personal health information, as reasonably necessary, to include the contents of the special needs customer application, in accordance with the Health Insurance Portability and Accountability Act. The customer may revoke this authorization by written notice to the public utility. The revocation of this authorization is effective only to the extent that the public utility has not relied upon the customer's authorization and results in immediate termination of that special needs customer's registration.

(D) A public utility, upon establishment of a new customer account, shall notify the customer of the special needs customer program.

(E) On a biannual basis, before the cooling and heating seasons, a public utility providing electric service shall issue public service announcements and send its customers proper notice about the special needs customer program including details of the program, requirements, and necessary qualifications. Notice to customers is considered proper if accomplished by special mailings, bill inserts, or bill messages.

(F) Registering a special needs customer with the public utility that serves the customer does not relieve the account holder of their obligation to pay for services rendered by the public utility.

(G) The Office of Regulatory Staff shall approve application forms to be used to register special needs customers.

Section 33-49-840. (A) A public utility shall establish and maintain a Winter Protection Program. The public utility shall maintain the name, address, and telephone number of a Winter Protection Program customer registered with the public utility.

(B) A customer may register for the Winter Protection Program by providing:

- (1) the account holder's name;
- (2) the applicable account number and service address;

- (3) the account holder's mailing address, home and work phone;
- (4) a medical certificate signed by a licensed health care provider attesting:
 - (a) that termination of electric service to the Winter Protection Program customer would be dangerous to the customer's health due to the customer's medical conditions;
 - (b) that duration of the Winter Protection Program customer's medical condition as being permanent or as lasting for a thirty, sixty, ninety, or one hundred twenty-day period; and
 - (c) the licensed health care provider's business address, telephone number, and medical license number and state of issuance;
- (5) if the Winter Protection Program customer is not the account holder, certification by the customer and the account holder that the account holder is responsible for the public utility bill at the customer's domicile and that the customer is a member of the household at that address.
- (C) If a customer is classified as a special needs customer pursuant to Section 33-49-830, he is presumed to be in the Winter Protection Program as defined in this section.
- (D) Upon request, the public utility shall provide the appropriate Winter Protection Program application form to its customers.
- (E) Unless the medical certificate submitted with the application for the Winter Protection Program indicates the customer's medical condition is permanent, the certificate is effective only for thirty, sixty, ninety, or one hundred twenty-day periods as indicated on the certificate. After this effective period, the customer is required to submit a renewed medical certificate in order to continue to be registered as a Winter Protection Program customer.
- (F) During the heating season, a public utility may not disconnect residential service when an account holder can provide to the public utility the application for the Winter Protection Program no less than three days before proposed disconnection of service or to the disconnection crew at time of disconnection.
- (G) By registering a customer for the Winter Protection Program pursuant to this section, the customer authorizes the licensed health care provider to communicate directly with the public utility regarding the customer's medical condition or health care needs that may be impacted by the discontinuance of service by the public utility. The customer specifically authorizes the disclosure of his personal health information, as reasonably necessary, to include the contents of the Winter Protection Program application, in accordance with the Health Insurance Portability and Accountability Act. The customer may revoke this authorization by written notice to the public utility. The revocation of this authorization is effective only to the extent that the public utility has not taken action in reliance upon the customer's authorization and results in immediate termination of the Winter Protection Program registration for that customer.
- (H) A public utility, upon establishment of a new customer account, shall notify the customer of the Winter Protection Program.
- (I) On an annual basis, before the heating season, a public utility shall issue public service announcements and send its customers proper notice about the Winter Protection Program including

details of the program and all requirements and necessary qualifications. Notice to customers is considered proper if accomplished by special mailings, bill inserts, or bill messages.

(J) Registering a customer for the Winter Protection Program does not relieve the account holder of his obligation to pay for services rendered by the public utility.

(K) The Office of Regulatory Staff shall approve application forms to be used to register customers for the Winter Protection Program.

Section 33-49-850. (A) A public utility shall establish and maintain a third-party notification program. The public utility shall maintain the name, address, and telephone number of a third party designated by a residential customer pursuant to this section.

(B) A residential customer of a public utility may designate a third party to be notified if the electric service is scheduled for disconnection by completing and submitting an application for the third-party notification program.

(C) Upon request, the public utility shall provide an application for the third-party notification program to its residential customers. A public utility, upon establishment of a new residential customer account, shall notify the customer of the third-party notification program.

(D) Within ten days after filing an application for third-party notification, the public utility shall send the named third party a letter advising the third party that he:

(1) has been listed on the customer's account to receive notice if the service is scheduled for disconnection for nonpayment of service; and

(2) may decline from serving as a designated third party if he is not willing to receive a third-party notice and contact the customer upon receipt of a third-party notice.

(E) Within ten days after receiving notification that the third party does not wish to serve as a designated third party, the public utility shall send a letter to the customer advising him that the:

(1) third-party designee has requested not to receive third-party notification; and

(2) customer may designate another third party to receive notification.

(F) On a biannual basis, before the cooling and heating seasons, a public utility providing electric service shall issue public service announcements and send its residential customers proper notice about the third-party notification program including details of the program and all requirements and necessary qualifications. Notice to customers is considered proper if accomplished by special mailings, bill inserts, or bill messages.

(G) The Office of Regulatory Staff shall approve application forms for the third-party notification program.

Section 33-49-860. (A) During the heating season, a public utility may not disconnect residential service if the National Weather Service predicts the local forecasted average low temperature at 8:00 a.m. for the following forty-eight hour period will be:

- (1) a heating temperature threshold equal to or below thirty-two degrees Fahrenheit; or
- (2) a forecasted low temperature equal to or below twenty degrees Fahrenheit.

(B) During the cooling season, a public utility providing electric service may not disconnect residential service if the National Weather Service predicts the local forecasted heat index at 8:00 a.m. for the following twenty-four hour period will be a cooling temperature threshold equal to or greater than one hundred five degrees Fahrenheit.

(C) A public utility shall rely upon the temperature or heat index forecasted by a weather forecasting service. If, contrary to forecasts by a weather forecasting service, the actual temperature on the day of termination reaches twenty degrees Fahrenheit or below or the actual heat index reaches one hundred five degrees Fahrenheit or above, and the public utility disconnects a customer, the public utility is not deemed to have violated the requirements of subsections (A) or (B).

(D) If a public utility has scheduled a disconnection of service of a registered special needs customer:

- (1) not less than ten days before a scheduled disconnection of service, the public utility shall mail a written disconnection notice to the registered special needs customer. If the registered special needs customer is not the account holder, the public utility shall mail a written disconnection notice to the account holder instead of the registered special needs customer. The public utility also shall mail a written disconnection notice to the third-party designee, if applicable, informing the third-party designee of the scheduled disconnection and requesting that the third-party designee contact the account holder and the registered special needs customer;
- (2) if the registered special needs customer has not arranged payment with the public utility, or payment has not been received by the public utility, the public utility shall mail a written notice of scheduled disconnection to the registered special needs customer three days before the scheduled disconnection of service. If the registered special needs customer is not the account holder, the public utility shall mail a written disconnection notice to the account holder instead of the registered special needs customer. The public utility also shall mail a written disconnection notice to the third-party designee, if applicable, informing the third-party designee of the scheduled disconnection and requesting that the third-party designee contact the registered special needs customer;
- (3) before the service is disconnected from a registered special needs customer, the public utility's disconnection crew shall make a good faith effort to make personal contact with either the registered special needs customer, the account holder, or a responsible person of suitable age and discretion at the premises before disconnecting the service. If, after the disconnection crew has made personal contact, the registered special needs customer, the account holder, or a responsible party at the premises advises the disconnection crew that the registered special needs customer has serious health concerns, disconnection must be suspended. The disconnection crew shall notify the public utility that the disconnection has been suspended and the public utility shall follow its internal special needs customer review process; or
- (4) if the account holder or the registered special needs customer requests a payment extension from the disconnection crew, the scheduled disconnection must be suspended for one full business day beyond the scheduled date for disconnection.

(E) If a public utility has scheduled a disconnection of service of a residential customer other than a registered special needs customer, the public utility shall notify the customer's third-party designee, if

applicable, of the scheduled disconnection at the same time and in the same manner as the public utility is required to notify the customer.

Section 33-49-870. (A) This article does not create a private right of action. The terms of this article or an order issued under it may not be construed as creating or evidencing a duty of care under the laws of this State.

(B) This article seeks to limit the liability of a public utility that complies with the provisions of this article to actual damages, not to exceed two hundred thousand dollars for each occurrence.

Section 33-49-880. Notwithstanding another provision of this article, a public utility may disconnect a special needs customer or a customer covered by another program of this article when directed to do so by personnel employed or volunteering for a lawfully or regularly organized fire department or police department or sheriff's department when it is determined that an emergency exists."

SECTION 3. Chapter 27, Title 58 of the 1976 Code is amended by adding:

"Article 19

Safety Net Programs for Special Needs Customers

Section 58-27-2510. For purposes of this article:

- (1) 'Ability to pay' means one hundred fifty percent of the amount of the poverty guidelines promulgated in the Federal Register by the United States Department of Health and Human Services.
- (2) 'Account holder' means the individual in whose name the residential electric or natural gas service is established.
- (3) 'Chronically ill' means having been diagnosed by a licensed health care provider with having an illness marked by a long duration, by frequent recurrence of symptoms over a long period of time, or by slowly progressing debilitating effects.
- (4) 'Cooling temperature threshold' means the high heat index forecasted by a weather forecasting service for the proposed date of termination.
- (5) 'Cooling season' means June first through August thirty-first.
- (6) 'Customer' means an individual receiving residential electric or natural gas service from a public utility.
- (7) 'Disabled' means diagnosed as having:
 - (a) a physical or mental impairment that substantially limits one or more major life activities; or
 - (b) a history or record of such an impairment.
- (8) 'Heating season' means December first through March thirty-first.
- (9) 'Heating temperature threshold' means the average of the forecasted high and forecasted low

temperatures provided by a weather forecasting service for the forty-eight hour period beginning on the proposed date of termination.

(10) 'Licensed health care provider' means a licensed medical doctor, physician's assistant, nurse practitioner, or advanced-practice registered nurse.

(11) 'Life support' means electronic medical equipment required to sustain life.

(12) 'Person' includes an individual, group, firm, partnership, copartnership, corporation, cooperative, association, government subdivision, government agency, local government, municipality within corporate limits, any other organization, or any combination of any of the foregoing.

(13) 'Proof of age' means a photocopy of the special needs customer's driver's license, birth certificate, passport, or other appropriate federal or state document detailing the special needs customer's date of birth.

(14) 'Proof of inability to pay' means certification provided by the Department of Health and Human Services that the customer meets the poverty guidelines requirement as defined in this section.

(15) 'Public utility' means a person engaged in the distribution, sale, delivery, or furnishing of electricity or natural gas or both to the public for compensation.

(16) 'Registered special needs customer' means a special needs customer who has registered with a public utility pursuant to Section 58-27-2530 and is:

- (a) sixty-five years of age or older and unable to pay the amount of the charges due for services; or
- (b) disabled, chronically ill, seriously ill, or on life support.

(17) 'Seriously ill' means having been diagnosed by a licensed health care provider as having a life threatening condition or an illness that poses imminent danger to the patient.

(18) 'Weather forecasting service' means the National Oceanic and Atmospheric Administration or other weather forecasting services approved by the Office of Regulatory Staff.

Section 58-27-2520. (A) Each public utility shall establish a written procedure for disconnection of service for a special needs customer and during extreme weather conditions. A public utility shall meet the requirements of this article by:

- (1) adopting the guidelines in this article; or
- (2) submitting a procedure to the Office of Regulatory Staff.

(B) If the public utility submits its own plan, the public utility shall submit the plan to the Office of Regulatory Staff by September 1, 2006, and the Office of Regulatory Staff shall accept or reject the plan by October 1, 2006.

(C) The public utility shall operate under the guidelines provided in this article unless the Office of Regulatory Staff accepts their proposed plan.

(D) Any subsequent revisions must be submitted semiannually by March first or September first.

Section 58-27-2530. (A) A public utility shall establish and maintain a special needs customer program. The public utility shall maintain the name, address, and telephone number of all special needs customers registered with the public utility.

(B) Upon request, the public utility shall provide the appropriate special needs customer application to a customer.

(C)(1) An account holder may register a special needs customer with the public utility that serves the customer by submitting the appropriate special needs customer application to the public utility and providing:

- (a) the account holder's name;
- (b) the applicable account number and service address;
- (c) the account holder's mailing address, home and work phone;
- (d) proof of age of the special needs customer;
- (e) proof of inability to pay;
- (f) a certification signed by the special needs customer's licensed health care provider that the special needs customer is disabled, chronically ill, seriously ill, or on life support;
- (g) the licensed health care provider's business address, telephone number, and medical license number and state of issuance; and
- (h) if the special needs customer is not the account holder, certification by the special needs customer and the account holder that the account holder is responsible for the public utility bill at the special needs customer's domicile and that the special needs customer is a member of the household at that address.

(2) By registering a special needs customer pursuant to this subsection, the special needs customer authorizes the licensed health care provider to communicate directly with the public utility regarding the customer's medical condition or health care needs that may be impacted by the discontinuance of service by the public utility. The special needs customer specifically authorizes the disclosure of his personal health information, as reasonably necessary, to include the contents of the special needs customer application, in accordance with the Health Insurance Portability and Accountability Act. The customer may revoke this authorization by written notice to the public utility. The revocation of this authorization is effective only to the extent that the public utility has not relied upon the customer's authorization and results in immediate termination of that special needs customer's registration.

(D) A public utility, upon establishment of a new customer account, shall notify the customer of the special needs customer program.

(E) On a biannual basis, before the cooling and heating seasons, a public utility providing electric service shall issue public service announcements and send its customers proper notice about the special needs customer program including details of the program, requirements, and necessary qualifications.

Notice to customers is considered proper if accomplished by special mailings, bill inserts, or bill messages.

(F) On an annual basis, before the heating season, a public utility providing natural gas service shall issue public service announcements and send its customers proper notice about the special needs customer program including details of the program and all requirements and necessary qualifications. Notice to customers is considered proper if accomplished by special mailings, bill inserts, or bill messages.

(G) A public utility providing electric and natural gas service may accomplish proper notice to both its gas and electric customers in the same notice.

(H) Registering a special needs customer with the public utility that serves the customer does not relieve the account holder of their obligation to pay for services rendered by the public utility.

(I) The Office of Regulatory Staff shall approve application forms to be used to register special needs customers.

Section 58-27-2540. (A) A public utility shall establish and maintain a Winter Protection Program. The public utility shall maintain the name, address, and telephone number of a Winter Protection Program customer registered with the public utility.

(B) A customer may register for the Winter Protection Program by providing:

- (1) the account holder's name;
 - (2) the applicable account number and service address;
 - (3) the account holder's mailing address, home and work phone;
 - (4) a medical certificate signed by a licensed health care provider attesting:
 - (a) that termination of electric or natural gas service to the Winter Protection Program customer would be dangerous to the customer's health due to the customer's medical conditions;
 - (b) that duration of the Winter Protection Program customer's medical condition as being permanent or as lasting for a thirty, sixty, ninety, or one hundred twenty-day period; and
 - (c) the licensed health care provider's business address, telephone number, and medical license number and state of issuance;
 - (5) if the Winter Protection Program customer is not the account holder, certification by the customer and the account holder that the account holder is responsible for the public utility bill at the customer's domicile and that the customer is a member of the household at that address.
- (C) If a customer is classified as a special needs customer pursuant to Section 58-27-2530, he is presumed to be in the Winter Protection Program as defined in this section.
- (D) Upon request, the public utility shall provide the appropriate Winter Protection Program application form to its customers.

(E) Unless the medical certificate submitted with the application for the Winter Protection Program indicates the customer's medical condition is permanent, the certificate is effective only for thirty, sixty, ninety, or one hundred twenty-day periods as indicated on the certificate. After this effective period, the customer is required to submit a renewed medical certificate in order to continue to be registered as a Winter Protection Program customer.

(F) During the heating season, a public utility may not disconnect residential service when an account holder can provide to the public utility the application for the Winter Protection Program no less than three days before proposed disconnection of service or to the disconnection crew at time of disconnection.

(G) By registering a customer for the Winter Protection Program pursuant to this section, the customer authorizes the licensed health care provider to communicate directly with the public utility regarding the customer's medical condition or health care needs that may be impacted by the discontinuance of service by the public utility. The customer specifically authorizes the disclosure of his personal health information, as reasonably necessary, to include the contents of the Winter Protection Program application, in accordance with the Health Insurance Portability and Accountability Act. The customer may revoke this authorization by written notice to the public utility. The revocation of this authorization is effective only to the extent that the public utility has not taken action in reliance upon the customer's authorization and results in immediate termination of the Winter Protection Program registration for that customer.

(H) A public utility, upon establishment of a new customer account, shall notify the customer of the Winter Protection Program.

(I) On an annual basis, before the heating season, a public utility shall issue public service announcements and send its customers proper notice about the Winter Protection Program including details of the program and all requirements and necessary qualifications. Notice to customers is considered proper if accomplished by special mailings, bill inserts, or bill messages.

(J) Registering a customer for the Winter Protection Program does not relieve the account holder of his obligation to pay for services rendered by the public utility.

(K) The Office of Regulatory Staff shall approve application forms to be used to register customers for the Winter Protection Program.

Section 58-27-2550. (A) A public utility shall establish and maintain a third-party notification program. The public utility shall maintain the name, address, and telephone number of a third party designated by a residential customer pursuant to this section.

(B) A residential customer of a public utility may designate a third party to be notified if the electric or natural gas service is scheduled for disconnection by completing and submitting an application for the third-party notification program.

(C) Upon request, the public utility shall provide an application for the third-party notification program to its residential customers. A public utility, upon establishment of a new residential customer account, shall notify the customer of the third-party notification program.

(D) Within ten days after filing an application for third-party notification, the public utility shall send the named third party a letter advising the third party that he:

(1) has been listed on the customer's account to receive notice if the service is scheduled for disconnection for nonpayment of service; and

(2) may decline from serving as a designated third party if he is not willing to receive a third-party notice and contact the customer upon receipt of a third-party notice.

(E) Within ten days after receiving notification that the third party does not wish to serve as a designated third party, the public utility shall send a letter to the customer advising him that the:

(1) third-party designee has requested not to receive third-party notification; and

(2) customer may designate another third party to receive notification.

(F) On a biannual basis, before the cooling and heating seasons, a public utility providing electric service shall issue public service announcements and send its residential customers proper notice about the third-party notification program including details of the program and all requirements and necessary qualifications. Notice to customers is considered proper if accomplished by special mailings, bill inserts, or bill messages.

(G) On an annual basis, before the heating season, a public utility providing natural gas service shall issue public service announcements and send its residential customers proper notice about the third-party notification program including details of the program and all requirements and necessary qualifications. Notice to customers is considered proper if accomplished by special mailings, bill inserts, or bill messages.

(H) A public utility providing electric and natural gas service may accomplish proper notice to both its gas and electric customers in the same notice.

(I) The Office of Regulatory Staff shall approve application forms for the third-party notification program.

Section 58-27-2560. (A) During the heating season, a public utility may not disconnect residential service if the National Weather Service predicts the local forecasted average low temperature at 8:00 a.m. for the following forty-eight hour period will be:

(1) a heating temperature threshold equal to or below thirty-two degrees Fahrenheit; or

(2) a forecasted low temperature equal to or below twenty degrees Fahrenheit.

(B) During the cooling season, a public utility providing electric service may not disconnect residential service if the National Weather Service predicts the local forecasted heat index at 8:00 a.m. for the following twenty-four hour period will be a cooling temperature threshold equal to or greater than one hundred five degrees Fahrenheit.

(C) A public utility shall rely upon the temperature or heat index forecasted by a weather forecasting service. If, contrary to forecasts by a weather forecasting service, the actual temperature on the day of termination reaches twenty degrees Fahrenheit or below or the actual heat index reaches one hundred five degrees Fahrenheit or above, and the public utility disconnects a customer, the public utility is not deemed to have violated the requirements of subsections (A) or (B).

(D) If a public utility has scheduled a disconnection of service of a registered special needs customer:

(1) not less than ten days before a scheduled disconnection of service, the public utility shall mail a written disconnection notice to the registered special needs customer. If the registered special needs customer is not the account holder, the public utility shall mail a written disconnection notice to the account holder instead of the registered special needs customer. The public utility also shall mail a written disconnection notice to the third-party designee, if applicable, informing the third-party designee of the scheduled disconnection and requesting that the third-party designee contact the account holder and the registered special needs customer;

(2) if the registered special needs customer has not arranged payment with the public utility, or payment has not been received by the public utility, the public utility shall mail a written notice of scheduled disconnection to the registered special needs customer three days before the scheduled disconnection of service. If the registered special needs customer is not the account holder, the public utility shall mail a written disconnection notice to the account holder instead of the registered special needs customer. The public utility also shall mail a written disconnection notice to the third-party designee, if applicable, informing the third-party designee of the scheduled disconnection and requesting that the third-party designee contact the registered special needs customer.

(3) before the service is disconnected from a registered special needs customer, the public utility's disconnection crew shall make a good faith effort to make personal contact with either the registered special needs customer, the account holder, or a responsible person of suitable age and discretion at the premises before disconnecting the service. If, after the disconnection crew has made personal contact, the registered special needs customer, the account holder, or a responsible party at the premises advises the disconnection crew that the registered special needs customer has serious health concerns, disconnection must be suspended. The disconnection crew shall notify the public utility that the disconnection has been suspended and the public utility shall follow its internal special needs customer review process; or

(4) if the account holder or the registered special needs customer requests a payment extension from the disconnection crew, the scheduled disconnection must be suspended for one full business day beyond the scheduled date for disconnection.

(E) If a public utility has scheduled a disconnection of service of a residential customer other than a registered special needs customer, the public utility shall notify the customer's third-party designee, if applicable, of the scheduled disconnection at the same time and in the same manner as the public utility is required to notify the customer.

Section 58-27-2570. (A) This article does not create a private right of action. The terms of this article or an order issued under it may not be construed as creating or evidencing a duty of care under the laws of this State.

(B) This article seeks to limit the liability of a public utility that complies with the provisions of this article to actual damages, not to exceed two hundred thousand dollars for each occurrence.

Section 58-27-2580. Notwithstanding another provision of this article, a public utility may disconnect a special needs customer or a customer covered by another program of this article when directed to do so by personnel employed or volunteering for a lawfully or regularly organized fire department or police department or sheriff's department when it is determined that an emergency exists."

SECTION 4. Chapter 31, Title 58 of the 1976 Code is amended by adding:**"Article 5****Safety Net Programs for Special Needs Customers**

Section 58-31-610. For purposes of this article:

- (1) 'Ability to pay' means one hundred fifty percent of the amount of the poverty guidelines promulgated in the Federal Register by the United States Department of Health and Human Services.
- (2) 'Account holder' means the individual in whose name the residential electric service is established.
- (3) 'Chronically ill' means having been diagnosed by a licensed health care provider with having an illness marked by a long duration, by frequent recurrence of symptoms over a long period of time, or by slowly progressing debilitating effects.
- (4) 'Cooling temperature threshold' means the high heat index forecasted by a weather forecasting service for the proposed date of termination.
- (5) 'Cooling season' means June first through August thirty-first.
- (6) 'Customer' means an individual receiving residential electric service from a public utility.
- (7) 'Disabled' means diagnosed as having:
 - (a) a physical or mental impairment that substantially limits one or more major life activities; or
 - (b) a history or record of such an impairment.
- (8) 'Heating season' means December first through March thirty-first.
- (9) 'Heating temperature threshold' means the average of the forecasted high and forecasted low temperatures provided by a weather forecasting service for the forty-eight hour period beginning on the proposed date of termination.
- (10) 'Licensed health care provider' means a licensed medical doctor, physician's assistant, nurse practitioner, or advanced-practice registered nurse.
- (11) 'Life support' means electronic medical equipment required to sustain life.
- (12) 'Person' includes an individual, group, firm, partnership, copartnership, corporation, cooperative, association, government subdivision, government agency, local government, municipality within corporate limits, any other organization, or any combination of any of the foregoing.
- (13) 'Proof of age' means a photocopy of the special needs customer's driver's license, birth certificate, passport, or other appropriate federal or state document detailing the special needs customer's date of birth.
- (14) 'Proof of inability to pay' means certification provided by the Department of Health and Human

Services that the customer meets the poverty guidelines requirement as defined in this section.

(15) 'Public utility' means a person engaged in the distribution, sale, delivery, or furnishing of electricity to the public for compensation.

(16) 'Registered special needs customer' means a special needs customer who has registered with a public utility pursuant to Section 58-31-630 and is:

(a) sixty-five years of age or older and unable to pay the amount of the charges due for services; or

(b) disabled, chronically ill, seriously ill, or on life support.

(17) 'Seriously ill' means having been diagnosed by a licensed health care provider as having a life threatening condition or an illness that poses imminent danger to the patient.

(18) 'Weather forecasting service' means the National Oceanic and Atmospheric Administration or other weather forecasting services approved by the Office of Regulatory Staff.

Section 58-31-620. (A) Each public utility shall establish a written procedure for disconnection of service for a special needs customer and during extreme weather conditions. A public utility shall meet the requirements of this article by:

(1) adopting the guidelines in this article; or

(2) submitting a procedure to the Office of Regulatory Staff.

(B) If the public utility submits its own plan, the public utility shall submit the plan to the Office of Regulatory Staff by September 1, 2006, and the Office of Regulatory Staff shall accept or reject the plan by October 1, 2006.

(C) The public utility shall operate under the guidelines provided in this article unless the Office of Regulatory Staff accepts their proposed plan.

(D) Any subsequent revisions must be submitted semiannually by March first or September first.

Section 58-31-630. (A) A public utility shall establish and maintain a special needs customer program. The public utility shall maintain the name, address, and telephone number of all special needs customers registered with the public utility.

(B) Upon request, the public utility shall provide the appropriate special needs customer application to a customer.

(C)(1) An account holder may register a special needs customer with the public utility that serves the customer by submitting the appropriate special needs customer application to the public utility and providing:

(a) the account holder's name;

(b) the applicable account number and service address;

- (c) the account holder's mailing address, home and work phone;
- (d) proof of age of the special needs customer;
- (e) proof of inability to pay;
- (f) a certification signed by the special needs customer's licensed health care provider that the special needs customer is disabled, chronically ill, seriously ill, or on life support;
- (g) the licensed health care provider's business address, telephone number, and medical license number and state of issuance; and
- (h) if the special needs customer is not the account holder, certification by the special needs customer and the account holder that the account holder is responsible for the public utility bill at the special needs customer's domicile and that the special needs customer is a member of the household at that address.

(2) By registering a special needs customer pursuant to this subsection, the special needs customer authorizes the licensed health care provider to communicate directly with the public utility regarding the customer's medical condition or health care needs that may be impacted by the discontinuance of service by the public utility. The special needs customer specifically authorizes the disclosure of his personal health information, as reasonably necessary, to include the contents of the special needs customer application, in accordance with the Health Insurance Portability and Accountability Act. The customer may revoke this authorization by written notice to the public utility. The revocation of this authorization is effective only to the extent that the public utility has not relied upon the customer's authorization and results in immediate termination of that special needs customer's registration.

(D) A public utility, upon establishment of a new customer account, shall notify the customer of the special needs customer program.

(E) On a biannual basis, before the cooling and heating seasons, a public utility providing electric service shall issue public service announcements and send its customers proper notice about the special needs customer program including details of the program, requirements, and necessary qualifications. Notice to customers is considered proper if accomplished by special mailings, bill inserts, or bill messages.

(F) Registering a special needs customer with the public utility that serves the customer does not relieve the account holder of their obligation to pay for services rendered by the public utility.

(G) The Office of Regulatory Staff shall approve application forms to be used to register special needs customers.

Section 58-31-640. (A) A public utility shall establish and maintain a Winter Protection Program. The public utility shall maintain the name, address, and telephone number of a Winter Protection Program customer registered with the public utility.

(B) A customer may register for the Winter Protection Program by providing:

- (1) the account holder's name;

- (2) the applicable account number and service address;
- (3) the account holder's mailing address, home and work phone;
- (4) a medical certificate signed by a licensed health care provider attesting:
 - (a) that termination of electric service to the Winter Protection Program customer would be dangerous to the customer's health due to the customer's medical conditions;
 - (b) that duration of the Winter Protection Program customer's medical condition as being permanent or as lasting for a thirty, sixty, ninety, or one hundred twenty-day period; and
 - (c) the licensed health care provider's business address, telephone number, and medical license number and state of issuance;
- (5) if the Winter Protection Program customer is not the account holder, certification by the customer and the account holder that the account holder is responsible for the public utility bill at the customer's domicile and that the customer is a member of the household at that address.
- (C) If a customer is classified as a special needs customer pursuant to Section 58-31-630, he is presumed to be in the Winter Protection Program as defined in this section.
- (D) Upon request, the public utility shall provide the appropriate Winter Protection Program application form to its customers.
- (E) Unless the medical certificate submitted with the application for the Winter Protection Program indicates the customer's medical condition is permanent, the certificate is effective only for thirty, sixty, ninety, or one hundred twenty-day periods as indicated on the certificate. After this effective period, the customer is required to submit a renewed medical certificate in order to continue to be registered as a Winter Protection Program customer.
- (F) During the heating season, a public utility may not disconnect residential service when an account holder can provide to the public utility the application for the Winter Protection Program no less than three days before proposed disconnection of service or to the disconnection crew at time of disconnection.
- (G) By registering a customer for the Winter Protection Program pursuant to this section, the customer authorizes the licensed health care provider to communicate directly with the public utility regarding the customer's medical condition or health care needs that may be impacted by the discontinuance of service by the public utility. The customer specifically authorizes the disclosure of his personal health information, as reasonably necessary, to include the contents of the Winter Protection Program application, in accordance with the Health Insurance Portability and Accountability Act. The customer may revoke this authorization by written notice to the public utility. The revocation of this authorization is effective only to the extent that the public utility has not taken action in reliance upon the customer's authorization and results in immediate termination of the Winter Protection Program registration for that customer.
- (H) A public utility, upon establishment of a new customer account, shall notify the customer of the Winter Protection Program.

(I) On an annual basis, before the heating season, a public utility shall issue public service announcements and send its customers proper notice about the Winter Protection Program including details of the program and all requirements and necessary qualifications. Notice to customers is considered proper if accomplished by special mailings, bill inserts, or bill messages.

(J) Registering a customer for the Winter Protection Program does not relieve the account holder of his obligation to pay for services rendered by the public utility.

(K) The Office of Regulatory Staff shall approve application forms to be used to register customers for the Winter Protection Program.

Section 58-31-650. (A) A public utility shall establish and maintain a third-party notification program. The public utility shall maintain the name, address, and telephone number of a third party designated by a residential customer pursuant to this section.

(B) A residential customer of a public utility may designate a third party to be notified if the electric service is scheduled for disconnection by completing and submitting an application for the third-party notification program.

(C) Upon request, the public utility shall provide an application for the third-party notification program to its residential customers. A public utility, upon establishment of a new residential customer account, shall notify the customer of the third-party notification program.

(D) Within ten days after filing an application for third-party notification, the public utility shall send the named third party a letter advising the third party that he:

(1) has been listed on the customer's account to receive notice if the service is scheduled for disconnection for nonpayment of service; and

(2) may decline from serving as a designated third party if he is not willing to receive a third-party notice and contact the customer upon receipt of a third-party notice.

(E) Within ten days after receiving notification that the third party does not wish to serve as a designated third party, the public utility shall send a letter to the customer advising him that the:

(1) third-party designee has requested not to receive third-party notification; and

(2) customer may designate another third party to receive notification.

(F) On a biannual basis, before the cooling and heating seasons, a public utility providing electric service shall issue public service announcements and send its residential customers proper notice about the third-party notification program including details of the program and all requirements and necessary qualifications. Notice to customers is considered proper if accomplished by special mailings, bill inserts, or bill messages.

(G) The Office of Regulatory Staff shall approve application forms for the third-party notification program.

Section 58-31-660. (A) During the heating season, a public utility may not disconnect residential service if the National Weather Service predicts the local forecasted average low temperature at 8:00

a.m. for the following forty-eight hour period will be:

- (1) a heating temperature threshold equal to or below thirty-two degrees Fahrenheit; or
- (2) a forecasted low temperature equal to or below twenty degrees Fahrenheit.

(B) During the cooling season, a public utility providing electric service may not disconnect residential service if the National Weather Service predicts the local forecasted heat index at 8:00 a.m. for the following twenty-four hour period will be a cooling temperature threshold equal to or greater than one hundred five degrees Fahrenheit.

(C) A public utility shall rely upon the temperature or heat index forecasted by a weather forecasting service. If, contrary to forecasts by a weather forecasting service, the actual temperature on the day of termination reaches twenty degrees Fahrenheit or below or the actual heat index reaches one hundred five degrees Fahrenheit or above, and the public utility disconnects a customer, the public utility is not deemed to have violated the requirements of subsections (A) or (B).

(D) If a public utility has scheduled a disconnection of service of a registered special needs customer:

- (1) not less than ten days before a scheduled disconnection of service, the public utility shall mail a written disconnection notice to the registered special needs customer. If the registered special needs customer is not the account holder, the public utility shall mail a written disconnection notice to the account holder instead of the registered special needs customer. The public utility also shall mail a written disconnection notice to the third-party designee, if applicable, informing the third-party designee of the scheduled disconnection and requesting that the third-party designee contact the account holder and the registered special needs customer;
- (2) if the registered special needs customer has not arranged payment with the public utility, or payment has not been received by the public utility, the public utility shall mail a written notice of scheduled disconnection to the registered special needs customer three days before the scheduled disconnection of service. If the registered special needs customer is not the account holder, the public utility shall mail a written disconnection notice to the account holder instead of the registered special needs customer. The public utility also shall mail a written disconnection notice to the third-party designee, if applicable, informing the third-party designee of the scheduled disconnection and requesting that the third-party designee contact the registered special needs customer.
- (3) before the service is disconnected from a registered special needs customer, the public utility's disconnection crew shall make a good faith effort to make personal contact with either the registered special needs customer, the account holder, or a responsible person of suitable age and discretion at the premises before disconnecting the service. If, after the disconnection crew has made personal contact, the registered special needs customer, the account holder, or a responsible party at the premises advises the disconnection crew that the registered special needs customer has serious health concerns, disconnection must be suspended. The disconnection crew shall notify the public utility that the disconnection has been suspended and the public utility shall follow its internal special needs customer review process; or
- (4) if the account holder or the registered special needs customer requests a payment extension from the disconnection crew, the scheduled disconnection must be suspended for one full business day beyond the scheduled date for disconnection.

(E) If a public utility has scheduled a disconnection of service of a residential customer other than a registered special needs customer, the public utility shall notify the customer's third-party designee, if applicable, of the scheduled disconnection at the same time and in the same manner as the public utility is required to notify the customer.

Section 58-31-670. (A) This article does not create a private right of action. The terms of this article or an order issued under it may not be construed as creating or evidencing a duty of care under the laws of this State.

(B) This article seeks to limit the liability of a public utility that complies with the provisions of this article to actual damages, not to exceed two hundred thousand dollars for each occurrence.

Section 58-31-680. Notwithstanding another provision of this article, a public utility may disconnect a special needs customer or a customer covered by another program of this article when directed to do so by personnel employed or volunteering for a lawfully or regularly organized fire department or police department or sheriff's department when it is determined that an emergency exists."

SECTION 5. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 6. Upon approval by the Governor, this act takes effect October 1, 2006.

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